UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK			
	X		
MARCUS STRAKER,	:		
Petitioner,	:	02 Civ. 9337	(PAC) (RLE)
- against -	: _	MEMORANI OPINION & 0	
ROGER SLATTERY, Warden, George R. Vierno Center, Rikers Island.	:	011111011	<u> </u>
Respondent.	:		
	: x		

HONORABLE PAUL A. CROTTY, United States District Judge:

Petitioner Marcus Straker ("Straker") seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his January 1999 conviction for robbery in the third degree following a jury trial. Straker asserts that his conviction and incarceration violate the U.S. Constitution in four respects: (1) petitioner was deprived his right to a speedy trial in violation of the Fifth Amendment; (2) petitioner was deprived his right to confront a witness in violation of the Sixth Amendment; (3) the state court verdict was against the weight of the evidence in violation of the Due Process Clause; and (4) petitioner was deprived his right to effective assistance of trial counsel in violation of the Sixth Amendment.

This case was referred to United States Magistrate Judge Ronald L. Ellis, who issued his Report and Recommendation ("R&R") on May 26, 2006, recommending the denial of Straker's Petition. The Magistrate Judge provided ten days for written objections, pursuant to Rule 72, Fed.R.Civ.P., and specifically advised that the failure to file objections "shall constitute a waiver

of those objections both in District Court and on later appeal to the United States Court of Appeals." (R&R, pg. 13.)

DISCUSSION

"To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district [court] need only satisfy itself that there is no clear error on the face of the record." James v. Miller, No. 04 Civ. 3602 (DLC), 2006 WL 1722575, at *2 (S.D.N.Y. May 12, 2004) (quoting Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)). As described more completely in the R&R, Straker has not shown that his conviction was either contrary to, or an unreasonable application of, clearly established federal law. See 28 U.S.C. § 2254(d). The Court agrees with Magistrate Judge Ellis's determination that Straker's conviction did not violate the Constitution or laws of the United States, and finds no error on the face of Magistrate Judge Ellis's report. Accordingly, the Court accepts and adopts the Report and Recommendation as its opinion, and denies Straker's petition for a writ of habeas corpus.

The Clerk of the Court is directed to enter an Order closing this case.

I decline to issue a certificate of appealability. The petitioner has not made a substantial showing of a denial of a federal right, and appellate review is therefore not warranted. Pursuant to 28 U.S.C. § 1915(a)(3), I also find that any appeal from this order would not be taken in good faith. Furthermore, Straker did not object to Magistrate Judge Ellis's R&R. As the R&R expressly advised, this failure to submit objections constitutes a waiver of Straker's right to appeal.

Dated: New York, New York

July 10, 2006

SO ORDERED

PAUL A. CROTTY
United States District Judge

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DISCUSSION

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Dated:

New York, New York

July 10, 2006

United States District Judge

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